

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

STEVEN SCHWARTZ,

Petitioner,

v.

J. HOLLINGSWORTH,

Respondent.

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Civ. No. 15-4601 (RBK)

MEMORANDUM AND ORDER

Petitioner is a federal prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The respondent has filed a response in opposition to the habeas petition. Presently pending before this Court is petitioner's motion for the appointment of pro bono counsel, or in the alternative, for an extension of time to file a reply brief.

Petitioner does not have a constitutional right to counsel in habeas proceedings. *See Reese v. Fulcomer*, 946 F.2d 247, 263 (3d Cir.1991), *superseded on other grounds by statute*, 28 U.S.C. § 2254. However, 18 U.S.C. § 3006A(a)(2)(B) provides that the court has discretion to appoint counsel where "the court determines that the interests of justice so require ..." In *Reese*, the Third Circuit explained that in determining whether counsel should be appointed, a court "must first decide if petitioner has presented a nonfrivolous claim and if the appointment of counsel will benefit the petitioner and the court. Factors influencing a court's decision include the complexity of the factual and legal issues in the case, as well as the pro se petitioner's ability to investigate facts and present claims." *Reese*, 946 F.2d at 263–64. In this case, and upon analyzing the factors outlined above, the Court finds that the appointment of counsel is not warranted at this time such that that portion of the motion will be denied without prejudice.

Nevertheless, this Court will grant petitioner's request for an extension of time to file a reply brief.

Accordingly, IT IS this 22nd day of December, 2015,

ORDERED that petitioner's motion to appoint counsel or in the alternative for an extension of time to file a reply brief (Dkt. No. 9) is granted in part and denied in part; and it is further

ORDERED that petitioner's request for the appointment of counsel is denied without prejudice; and it is further

ORDERED that petitioner's request for an extension of time to file a reply brief is granted; and it is further

ORDERED that petitioner may file his reply brief to his habeas petition within forty-five (45) days of the date of this Order; and it is further

ORDERED that the Clerk shall serve this Order on petitioner by regular U.S. mail.

s/Robert B. Kugler
ROBERT B. KUGLER
United States District Judge